

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN ALLEN,

Plaintiff,

v.

HOMEQ SERVICING INC.,

Defendant

No. C-08-3798 MMC

**ORDER DENYING PLAINTIFF'S MOTION
TO REMAND; VACATING HEARING**

Before the Court is plaintiff's Motion to Remand, filed August 28, 2008. Defendant has filed opposition, to which plaintiff has replied. Having read and considered the papers filed in support of and in opposition to the motion, the Court finds the matter appropriate for decision on the papers submitted, VACATES the hearing scheduled for October 10, 2008, and rules as follows.

Defendant removed the instant case based on diversity of citizenship. Plaintiff does not dispute that the parties are of diverse citizenship; rather, plaintiff argues defendant cannot establish the amount in controversy exceeds \$75,000.


Defendant relies on plaintiff's initial disclosures, in which plaintiff states, "Plaintiff's damages are \$218,000 in compensatory damages, plus punitive damages, attorney's fees, cost of suit, and other damages to be determined." (See Ex. to Campbell Decl.) On its

1 face, said document constitutes sufficient evidence to support a finding that the amount in
2 controversy exceeds \$75,000. Plaintiff's first argument, that defendant cannot rely on
3 plaintiff's disclosures because plaintiff made the same demand in settlement negotiations,
4 is unpersuasive. Even assuming a defendant cannot, as plaintiff argues, rely on a
5 settlement demand to establish the amount in controversy,¹ defendant here does not rely
6 on plaintiff's settlement demand. Similarly unpersuasive is plaintiff's additional argument
7 that defendant cannot rely on plaintiff's disclosure because defendant has informed plaintiff
8 that, according to defendant's calculations, plaintiff's compensatory damages are less than
9 \$75,000. For purposes of determining the amount in controversy, "[t]he appropriate
10 measure is the litigation value of the case assuming . . . a verdict for the plaintiff on all
11 claims made in the complaint," see Jackson v. American Bankers Ins. Co., 976 F. Supp.
12 1450, 1454 (S.D. Ala. 1997), not a value assuming a verdict based on the defenses
13 asserted thereto, see Riggins v. Riggins, 415 F. 2d 1259, 1261-62 (9th Cir. 1969).

14 Accordingly, the motion is hereby DENIED.

15 **IT IS SO ORDERED.**

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17 Dated: October 6, 2008

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19 MAXINE M. CHESNEY
20 United States District Judge
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27 ¹Moreover, the cases declining to consider settlement demands in determining the
28 amount in controversy have concerned offers to compromise the action for amounts falling
below, not, as here, above, the jurisdictional threshold. See, e.g., Saunders v. Rider, 805
F. Supp. 17, 19 (E.D. La. 1992).